

**PROPERTY ASSESSMENT APPEAL BOARD**  
**FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER**

PAAB Docket No. 2021-007-00193C

Parcel No. 8913-18-379-027

**Ethos Hospitality, LLC,**

Appellant,

vs.

**Black Hawk County Board of Review,**

Appellee.

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**Introduction**

The appeal came on for consideration before the Property Assessment Appeal Board (PAAB) on April 28, 2022. Hemin Patel, a tax representative with O'Connor represented Ethos Hospitality, LLC. Assistant Black Hawk County Attorney Michael Treinen represented the Board of Review.

Ethos Hospitality, LLC (Ethos) owns a commercial property located at 5924 University Avenue, Cedar Falls. Its January 1, 2021 assessment was set at \$1,409,130, allocated as \$523,750 in land value and \$885,380 in improvement value. (Ex. A).

Ethos petitioned the Board of Review but identified no grounds in its protest. (Ex. C). The Board of Review denied the Petition. (Ex. B).

Ethos then appealed to PAAB asserting the property is assessed for more than the value authorized by law and that there is an error in the assessment. Iowa Code § 441.37(1)(a)(1)(b & d).

**General Principles of Assessment Law**

PAAB has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A. PAAB is an agency and the provisions of the Administrative Procedure Act

apply. § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). PAAB may consider any grounds under Iowa Code section 441.37(1)(a) properly raised by the appellant following the provisions of section 441.37A(1)(b) and Iowa Admin. Code R. 701-126.2(2-4). New or additional evidence may be introduced. *Id.* PAAB considers the record as a whole and all of the evidence regardless of who introduced it. § 441.37A(3)(a); *see also Hy-vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption the assessed value is correct, but the taxpayer has the burden of proof. §§ 441.21(3); 441.37A(3)(a). The burden may be shifted; but even if it is not, the taxpayer may still prevail based on a preponderance of the evidence. *Id.*; *Compiano v. Bd. of Review of Polk Cnty.*, 771 N.W.2d 392, 396 (Iowa 2009) (citation omitted).

### **Findings of Fact**

The subject property is a sixty-seven-unit, two-story hotel operating as a Days Inn. It was built in 1963 and remodeled in 2000. It has 29,696 square feet of gross building area, and six porches ranging from 64 square feet to 216 square feet. The improvements are listed in normal condition with a 4+00 Grade (average quality). The subject improvements have 30% physical depreciation and a 40% economic obsolescence applied to the assessment. The site is 1.095 acres and is also improved with 30,500 square feet of asphalt parking. (Ex. A).

Ethos purchased the hotel in July 2016 for \$1,199,630. (Ex. A). The property record card indicates the sale was normal. Iowa Dept. of Revenue, Sales Condition Codes, <https://tax.iowa.gov/sites/default/files/2021-01/NUTCSalesConditionCodes-v5.pdf> (stating a NUTC Code of '0' indicates a normal sale).

Ethos submitted no evidence in support of its 2021 appeal.<sup>1</sup> Hemin Patel testified on behalf of Ethos. He addressed two concepts related to his belief the subject property

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<sup>1</sup> Hemin Patel stated that a former tax representative with O'Connor, Shedrick Lewis, filed the protest to the Board of Review and this appeal to PAAB. Patel contends he was not aware of the deadline for filing exhibits in this matter and/or was unable to timely comply with the deadline for doing so. We note this appeal was filed on June 14, 2021 and the Notice of Hearing was issued on February 3, 2022. The docket reflects no activity by either party until the Board of Review exhibits were submitted on April 7,

was over assessed and that there was an error in the assessment. First, he stated the Days Inn flag on the hotel accounts for 11% of the property's expenses and revenue. He contends the flag is personal property or an intangible asset that should not be taxable. He did not point to anything in the property record card which might indicate the property's flag is being assessed.

Second, Patel asserted the only valuation method relevant to a hotel property is the income approach to value. He contends the subject hotel, like many in the hotel industry, suffered a reduction in revenue due to the Covid pandemic. Patel requests the value of the property be reduced to \$1,230,000. (Appeal). He did not submit any evidence of the property's income, or any other evidence such as an appraisal, a comparative market analysis, or comparable sales.

We note Ethos appealed its 2020 assessment to PAAB and made similar claims. We affirmed the 2020 assessment and it was not appealed. See *Ethos Hospitality, LLC v Black Hawk County Board of Review*, PAAB Docket No. 2020-007-00179C (August 16, 2021). The current 2021 assessment is the same as 2020.

The Board of Review called no witness, but relied on the exhibits it submitted.

### **Analysis & Conclusions of Law**

Ethos asserts its property is assessed for more than the value authorized by law and that there is an error in the assessment. Iowa Code § 441.37(1)(a)(1)(b & d).

For its error claim, Ethos asserts the subject's assessment improperly includes personal and intangible property in violation of Iowa Code section 441.21(2). Ethos offered no evidence the assessor has improperly included any prohibited items in the assessment and we can find no evidence that any have been included in the assessment.

In an appeal alleging the property is assessed for more than the value authorized by law under Iowa Code section 441.37(1)(a)(2), the taxpayer must show: 1) the

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2022. Ethos bore the responsibility to monitor the docket in this case, even after the departure of its prior representative.

assessment is excessive and 2) the subject property's correct value. *Soifer v. Floyd Cnty. Bd. of Review*, 759 N.W.2d 775, 780 (Iowa 2009) (citation omitted).

The burden of proof is upon the taxpayer, who “must establish a ground for protest by a preponderance of the evidence. *Compiano*, 771 N.W.2d at 396. But when the taxpayer “offers competent evidence that the market value of the property is different than the market value determined by the assessor, the burden of proof thereafter shall be upon the officials or persons seeking to uphold such valuation.” Iowa Code § 441.21(3). To be competent evidence, it must “comply with the statutory scheme for property valuation for tax assessment purposes.” *Soifer*, 759 N.W.2d at 782 (citations omitted).

In Iowa, property is to be valued at its actual value. § 441.21(1)(a). Actual value is the property's fair and reasonable market value. § 441.21(1)(b). Market value essentially is defined as the value established in an arm's-length sale of the property. *Id.* Sale prices of the property or comparable properties in normal transactions are to be considered in arriving at market value. *Id.* “In arriving at market value, sale prices of property in abnormal transactions not reflecting market value shall not be taken into account, or shall be adjusted to eliminate the effect of factors which distort market value, including but not limited to sales to immediate family of the seller, foreclosure or other forced sales, contract sales, discounted purchase transactions or purchase of adjoining land or other land to be operated as a unit.” *Id.* Other factors and approaches to value, such as cost and income, can only be considered upon a showing that sales cannot readily establish the subject's actual value, but “the actual value shall not be determined by use of only one such factor.” § 441.21(2).

While the sales comparison approach is the preferred method of valuation under Iowa law, Patel contends the only relevant valuation tool for a hotel property is the income approach. Even so, he submitted no evidence to support his contention that the subject's revenue suffered a decline due to the Covid pandemic, or what impact that may have on its market value. Moreover, the evidence Ethos submitted in its last appeal indicated comparable sales were available at that time, and we presume sales would

have been available this assessment cycle. The income evidence Ethos submitted in its last appeal was unpersuasive and determined to be incompetent.

Viewing the record as a whole, we find Ethos has failed to support its claims.

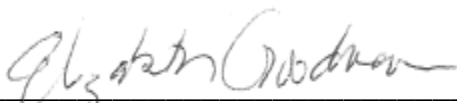
### **Order**

PAAB HEREBY AFFIRMS the Black Hawk County Board of Review's action.

This Order shall be considered final agency action for the purposes of Iowa Code Chapter 17A (2021).

Any application for reconsideration or rehearing shall be filed with PAAB within 20 days of the date of this Order and comply with the requirements of PAAB administrative rules. Such application will stay the period for filing a judicial review action.

Any judicial action challenging this Order shall be filed in the district court where the property is located within 30 days of the date of this Order and comply with the requirements of Iowa Code section 441.37B and Chapter 17A.

  
Elizabeth Goodman, Board Member

  
Dennis Loll, Board Member

  
Karen Oberman, Board Member

Copies to:

Hemin Patel for Ethos by efile

Black Hawk County Board of Review by efile